

shall be as set forth in their respective statements of claim herein.

5. This stipulation shall be binding upon the heirs, executors, administrators and assigns of the contestant and contestees and shall be a covenant running with the land.

6. The provisions of this stipulation shall be enforced by the water master as provided by law and the contestant and contestees hereby agree to submit to his jurisdiction.

Dated this 2nd day of April, 1929.

Percy A. Cupper
Attorney for Contestant.

E. R. Woods
John H. Lewis
Attorneys for Contestees.

The above stipulation will be enforced insofar as it is not in conflict with the general findings herein pertaining to the duty of water and the determination of the irrigation season.

56.

Contests Nos. 53, 59 and 60

Contest No. 53

G. W. Reynolds, Contestant,
vs.
C. P. Ragsdale, Norman Caverhill and Mildred E. Hayes, Contestees.

Contest No. 59

Jennie E. Meyer, Administratrix of the Estate of M. L. Brown, Deceased, Contestant,
vs.
Norman Caverhill and Mildred E. Hayes, Contestees.

Contest No. 60

Jennie E. Meyer, Administratrix of the Estate of M. L. Brown, deceased, Contestant,
vs.
C. P. Ragsdale, Contestee.

A stipulation was filed in settlement of this contest, and whereas the parties thereto are the principal and earliest users on the stream the rights will be allowed and the water distributed between the parties according to the terms thereof, a copy of which follows:

BEFORE THE STATE ENGINEER OF THE STATE OF OREGON
IN THE MATTER OF THE DETERMINATION OF THE RELATIVE RIGHTS
TO THE WATERS OF JOHN DAY RIVER, A TRIBUTARY OF COLUMBIA RIVER.

G. W. Reynolds and Jennie E. Meyer, Administratrix of the estate of M. L. Brown, Contestants,
vs.
Norman Caverhill and Mildred E. Hayes, Contestees.

STIPULATION IN SETTLEMENT OF
CONTEST

It is HEREBY STIPULATED AND AGREED by and between the said Contestants, G. W.

REYNOLDS and M. L. BROWN estate, and the said contestees, NORMAN CAVERHILL and MILDRED E. HAYES in full settlement of all matters set forth in said contest as follows:

1. Contestants, G. W. Reynolds and M. L. Brown estate shall be entitled to a water right from Riley Creek for the irrigation of all lands for which a water right is asserted in the claims of the said G. W. Reynolds and M. L. Brown estate filed in the above entitled proceedings with priority dates as set forth in said claims and which said claims are hereby referred to and made a part of this stipulation;

2. Contestees, Norman Caverhill and Mildred E. Hayes shall be entitled to a water right from Riley Creek for the irrigation of all lands for which a water right is asserted in the claims filed by said Contestees, Norman Caverhill and Mildred E. Hayes in the above entitled proceedings with priority dates as set forth in said claims subject to the condition hereafter set forth which said claims are referred to and made a part of this Stipulation;

3. The quantity of water to which the contestants, G. W. Reynolds and M. L. Brown estate, and contestees, Norman Caverhill and Mildred E. Hayes shall be entitled, shall be the quantity of water allowed by the State Engineer or as such quantity may be modified by the Circuit Court or in the event of an appeal, by the Supreme Court;

4. That the said contestants, G. W. Reynolds and M. L. Brown estate shall each take sufficient water for stock and domestic use and for the irrigation of a garden not to exceed one acre in extent and said right shall be superior to any and all rights of the said contestees, Norman Caverhill and Mildred E. Hayes, subject to the condition that should the Blue Mountain Ditch which now supplies the contestees, Norman Caverhill and Mildred E. Hayes be injured by waterspout or other act of God so that the same will not carry water sufficient for stock purposes, then and in that case the said Mildred E. Hayes is to have sufficient water for stock and domestic use equally and upon the same basis as the said contestants, G. W. Reynolds and M. L. Brown estate, for such reasonable time as may be necessary to repair the same, and which said rights for stock and domestic uses are hereby declared superior to all other rights herein;

5. That from and after June 15th of each and every year the rights of the Contestants, G. W. Reynolds and M. L. Brown estate to the waters of Riley Creek as fixed and determined by the State Engineer or as the same may be modified by the courts shall be superior to the rights of the contestees, Norman Caverhill and Mildred E. Hayes;

6. That whenever prior to June 15th of any year, there is insufficient water in the John Day River at the point which all the contestees, Norman Caverhill and Mildred E. Hayes divert water from said stream to supply their rights under the Blue Mountain Ditch as fixed and determined by the State Engineer or as the same may be modified by the Courts, the waters of Riley Creek shall be pro-rated between the contestants, G. W. Reynolds and M. L. Brown estate, and the contestees, Norman Caverhill and Mildred E. Hayes in proportion to the area of land of the parties hereto entitled to water from Riley Creek under the findings of the State Engineer as the same may be modified by the Courts, regardless of the relative priority of such rights.

7. IT IS FURTHER STIPULATED That nothing herein contained shall interfere with the rights of the said Mildred E. Hayes and the said Norman Caverhill to any flood or surplus waters of said Riley Creek after the said G. W. Reynolds and M. L. Brown estate have had sufficient water for the irrigation of lands for which claims have been asserted by them, the amount and duty of such waters to irrigate the said lands of the said G. W. Reynolds and M. L. Brown estate to be determined by the State Engineer.

AND IT IS FURTHER STIPULATED That the failure of the contestees, Norman Caverhill and Mildred E. Hayes to properly maintain their ditches, dams or other works for the diversion of water from the John Day River shall not entitle them to the diversion of waters of Riley Creek as herein set forth.

IN WITNESS WHEREOF, We have hereunto set our hands this 9th day of March, 1929.

In the Presence of us as Witnesses:

<u>Earl B. Moore</u>	<u>M. L. Brown Estate</u>
<u>Harvey B. Reynolds</u>	<u>By Geo. H. Cattanach, Att'y.</u>
<u>E. A. Shields</u>	<u>George W. Reynolds</u>
<u>A. W. Wescott</u>	<u>CONTESTANTS.</u>
	<u>Norman Caverhill</u>
	<u>Mildred E. Hayes</u>
	<u>CONTESTEES.</u>

The contest as to Contestee Ragsdale was confessed and it is herein determined that said Contestees rights are inferior and later than those of Contestants. (as per next page.)

The contest as to Contestee Ragdale was confessed and it is herein determined that said Contestee's rights are inferior and later than those of Contestants.

57.

Contest Nos. 54 and 64.

Contest No. 54

F. M. Fisk, Philip J. Kuhl, Herman Oliver
and Frank Oliver, Mabel E. Muldrick,
Estate of Henry A. Johnson, deceased,
Mrs. C. J. Bartlett, C. W. Lamson, David
W. Moyer, Zoe A. Stephenson, Annie Young,
Walter Ross, Sarah J. Olp, C. E. Ridgeway,
Burton Howard and Charles Howard, Wm.
Young, Walter Clyde Campbell,
Contestants,

vs.

Rebecca C. Wolverton,
Contestee.

Contest No. 64

Rebecca C. Wolverton,
Contestant,

vs.

Sarah J. Olp,
Contestee.

This contest was settled by stipulation, wherein Contestee Wolverton under Proof No. 1473 agreed to take a date of priority for 40 acres of 1896 in lieu of 1866. The remainder of Contestee's rights were acquired under State Engineer's permit and will be governed thereby.

58.

Contest No. 55

Mabel E. Muldrick, Herman Oliver and
Frank Oliver and Mrs. C. J. Bartlett,
Contestants,

vs.

Emmett J. Kimberling,
Contestee.

See Findings paragraph 19, page 32.

59.

Contest No. 56

Mabel E. Muldrick, Philip J. Kuhl,
Herman Oliver, Frank Oliver and Mrs.
C. J. Bartlett,
Contestants,

vs.

Mary P. Rosenstihl,
Contestee.

See Findings paragraph 23, page 34.

60.

Contest No. 57

Florence E. Leedy,
Contestant,

vs.

Wm. Young,
Contestee.